

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 COME-00 TRSE-00 CIAE-00

INR-07 NSAE-00 L-03 HEW-04 OES-07 STR-06 /048 W

-----083883 210959Z /15

R 201630Z JAN 78

FM AMEMBASSY BELGRADE

TO SECSTATE WASHDC 4609

INFO AMCONSUL ZAGREB

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E.O. 11652: N/A

TAGS: BTRA, EIND, YO

SUBJECT: DRUG TRADEMARK PROBLEMS--STATUS REPORT

REF: A/STATE A-5159, B/ BELGRADE 5638

1. TRANSFER OF FOREIGN DRUG TRADEMARKS CONTINUES TO BE SENSITIVE ISSUE WHICH COMPETENT GOVERNMENT AUTHORITIES ARE UNWILLING TO ADDRESS. ON JANUARY 5, EMBASSY AGAIN REQUESTED AN APPOINTMENT WITH THE FEDERAL COMMITTEE ON HEALTH AND SOCIAL PROTECTION TO DISCUSS APPLICATION OF TRADEMARK PROVISION (ARTICLE 27 (4)) OF DRUG LAW AND SPECIFIC ITEMS NOTED IN REPAIR A. DESPITE ASSURANCES FROM THE COMMITTEE'S INTERNATIONAL SECTION THAT AN APPOINTMENT COULD BE ARRANGED SOON, A CALL TO COMMITTEE ON JANUARY 19 REVEALED THAT OFFICIALS ARE STILL NOT READY TO PROPOSE MEETING DATE. (ONLY THE SWISS EMBASSY, OF THE SEVERAL WESTERN MISSIONS SHOWING AN INTEREST IN THE TRADEMARK ISSUE, HAS SUCCEEDED IN OBTAINING AN APPOINTMENT AT THE COMMITTEE AND THIS CAME ONLY AFTER HEAVY LOBBYING BY THE AMBASSADOR WITH SENIOR OFFICIALS OF THE FOREIGN TRADE MINISTRY AND FEDERAL CHAMBER OF ECONOMY. AS NOTED IN REFTEL B, DISCUSSION AT MEETINGS WERE OF GENERAL NATURE AND DID NOT CLARIFY ITEMS IN QUESTION.)

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2. WHEN INITIAL APPOINTMENT REQUEST WAS MADE, COMMITTEE OFFICIAL TOLD EMBASSY OFFICER THAT DELEGATION OF DRUG INDUSTRY REPRESENTATIVES WENT TO U.S. ON JANUARY 8 TO MEET WITH U.S. PHARMACEUTICAL FIRMS. HE WAS RELUCTANT TO DISCUSS DELEGATION'S PROGRAM BUT IMPLIED THAT THE TRADEMARK ISSUE WOULD BE RAISED IN IT'S MEETINGS. HAS THE DEPARTMENT

BEEN INFORMED OF CONTENT OF DISCUSSIONS WHICH DELEGATION HAS HAD WITH U.S. DRUG COMPANIES? IF NOT, LANDAU OF JOHNSON AND JOHNSON MAY BE POSSIBLE SOURCE OF INFORMATION.

3. ACCORDING TO SWISS INDUSTRY SOURCES, FAM-ITALIA AND FRENCH AND SEDISH DRUG FIRMS (IDENTITY UNDISCLOSED) HAVE SIGNED MARKETING AGREEMENTS WITH YUGOSLAV DRUG FIRMS THAT COMPLY WITH ARTICLE 27(5). THIS WAS REVEALED BY SWISS COMMERCIAL COUNSELOR AT INFORMAL MEETING ON DRUG LAW ATTENDED BY EMBASSY ECON/COMM OFFICER AND REPRESENTATIVES OF GERMAN, AUSTRAIN, ITALIAN AND BRITISH EMBASSIES AS WELL AS SWISS AMBASSADOR. REPRESENTATIVES HAVE NOT HEARD OF ANY OTHER DRUG FIRMS WHICH HAVE PERMITTED TRANSFER OF TRADEMARK RIGHTS TO YUGOSLAV BUSINESS PARTNERS. AUSTRIAN, BRITISH AND SWISS REPRESENTATIVES SAID THAT THEIR RESPECTIVE GOVERNMENTS AND DRUG INDUSTRIES WERE STRONGLY OPPOSED TO TRADEMARK PROVISION. CONCERN, HOWEVER, IS PRIMARLY WITH TRANSFER OF TRADEMARK OWNERSHIP AND NOT DELAYS IN REGISTERING TRADEMARKS WITH PATENT OFFICE. SWISS COMMERCIAL COUNSELOR ALSO ANNOUNCED AT MEETING THAT SWISS DELEGATION OF PHARMACEUTICAL REPRESENTATIVES WOULD BE COMING TO YUGOSLAVIA END JANUARY OR BEGINNING FEBRUARY TO MEET WITH GOVERNMENT AND DRUG INDUSTRY OFFICIALS ON TRADEMARK QUESTION.

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4. INFORMATION REVEALED PIECEMEAL FROM OFFICIAL AND UNOFFICIAL SOURCES INDICATES THAT TRADEMARK PROVISION IS STILL UNDER REVIEW BY COMMITTEE OF NATIONAL ASSEMBLY. NONE OF THESE SOURCES, HOWEVER, HAVE BEEN ABLE TO PROVIDE ANY DETAILS ON COMMITTEE'S DELIBERATIONS OR SPECIFIC PROPOSALS, IF THEY INDEED EXIST, FOR REVISING DRUG LAW. IN IEW OF LEGISLATIVE BACKLOG WHICH IS TRYING UP ACTION ON ISSUES OF GREATER ECONOMIC IMPORTANCE (E.G., JOINT VENTURES AND LONG TERM TECHNICAL AND COMMERICAL COOPERATION), MOVEMENT ON TRADEMARK QUESTION MAY BE YET DELAYED SEVERAL MONTHS.

5. ISSUE OF LONG DELAYS IN REGISTERING FOREIGN DRUG TRADEMARKS WAS ALSO RAISED IN EMBASSY'S WRITTEN REQUEST FOR APPOINTMENT AT HEALTH COMMITTEE. SPECIFICALLY, IT WAS ASKED WHETHER THERE ARE ANY TECHNICAL OR ADMINISTRATIVE REASONS THAT WOULD EXPLAIN WHY REGISTRATION OF FOREIGN DRUG TRADEMARKS MIGHT TAKE SUBSTANTIALLY LONGER THAN THAT OF DOMESTIC FIRMS'. IF GOY CAN GIVE NO REASONABLE EXPLANATION, THIS WOULD APPEAR TO INDICATE VIOLATION OF NATIONAL TREATMENT PRINCIPLE OF PARIS CONVENTION AND GIVE GROUNDS FOR OFFICIAL PROGEST. IN DISCUSSING

THIS ISSUE WITH YUGOSLAVS, IT WOULD BE USEFUL TO HAVE SPECIFIC EXAMPLES OF U.S. APPLICATIONS FOR TRADEMARK REGISTRATION THAT HAVE TAKEN UNUSUALLY LONG TIME TO PROCESS. HAVE ANY U.S. DRUG FIRMS PROVIDED DEPARTMENT WITH SPECIFIC EXAMPLES? IF SO, PLEASE FORWARD.

6. EMBASSY WILL CONTINUE TO PRESS FOR APPOINTMENT WITH HEALTH COMMITTEE AND KEEP DEPARTMENT POSTED ON STATUS OF TRADEMARK PROVISION.
EAGLEBURGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DRUGS, TRADEMARKS
Control Number: n/a
Copy: SINGLE
Draft Date: 20 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BELGRA00457
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780032-0689
Format: TEL
From: BELGRADE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780142/aaaabjfh.tel
Line Count: 125
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a329c7e1-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3743793
Secure: OPEN
Status: NATIVE
Subject: DRUG TRADEMARK PROBLEMS--STATUS REPORT
TAGS: BTRA, EIND, YO
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/a329c7e1-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014